

**REMARKS**Claim Changes

Claim 1 is amended to incorporate the subject matter of claim 2; claim 2 is canceled.

Claims 7 and 28 are amended to incorporate the subject matter of claim 16; claim 16 is canceled.

Claim 1 is further amended to recite "*receiving simultaneously a first signal on a first channel and a second signal on a second different channel.*" Claim 7 is further amended to recite "*a first signal and a second signal received simultaneously on down stream path.*" Claim 28 is further amended to recite "*the first and the second signals are received simultaneously*" Support for the changes can be found on page 5, paragraph [0015] of the specification as filed. Thus no new matter is added.

No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment is made for the purpose of narrowing the scope of any claim, unless Applicant had argued herein that such amendment is made to distinguish over a particular reference or combination of references. Any remarks made herein with respect to a given claim or amendment is intended only in the context of that specific claim or amendment, and should not be applied to other claims, amendments, or aspects of Applicant's invention.

Rejection of claims 1-3, 7-10, 12-14, and 17-30 under 35 U.S.C. § 102 (e) as being anticipated by US 5,874,992 (Caporizzo)

Applicant has amended the claims to clarify the invention. Applicant therefore respectfully requests reconsideration of the rejection of claims 1-3, 7-10, 12-14, and 17-30 monitoring *a first signal and a second signal received simultaneously on down stream path* and a signal on upstream path, *for at least one of channel absence/presence, error count and signal level estimates* under 35 U.S.C. § 102(e) as being anticipated by Caporizzo as herein amended.

Applicant has carefully reviewed the present application and the cited art and has amended independent claims 1, 7, and 28 to clarify the claimed invention. The independent claims 1, 7, and 28 as amended describes *receiving simultaneously a first signal on a first channel and a second signal on a second different channel*; and monitoring and collecting

information about the first signal and the second signal received by the STB, *wherein the information comprises at least one of channel absence/presence, error count and signal level estimates.*

In view of the fore going Applicant respectfully submits that Caporizzo does not disclose “*receiving simultaneously a first signal on a first channel and a second signal on a second different channel; and monitoring and collecting information about the first signal and the second signal received by the STB, wherein the information comprises at least one of channel absence/presence, error count and signal level estimates,*” as recited by the Applicant’s independent claim 1 as amended, “*monitoring a first signal and a second signal received simultaneously on down stream path and a signal on upstream path, for at least one of channel absence/presence, error count and signal level estimates*” as recited by the Applicant’s independent claim 7 as amended, and “*monitor means for monitoring and generating information related to signal quality of the simultaneously received first and the second signals, wherein the information comprises at least one of channel absence/presence, error count and signal level estimates,*” as recited by the Applicant’s independent claim 28 as amended.

Therefore, Applicant requests reconsideration and withdrawal of the rejection of claims 1, 7, and 28 under 35 U.S.C. § 102(e) in view of Caporizzo.

Dependent claim 3 depends from, and includes all the limitations of independent claim 1. Dependent claims 8-10, 12-14, 17-27 depend from, and include all the limitations of independent claims 7. Dependent claims 29-30 depend from, and include all the limitations of independent claim 28. Therefore, Applicant respectfully requests reconsideration of dependent claims 3, 8-10, 12-14, 17-27, and 29-30 and requests the withdrawal of the rejection.

Rejection of Claim 4 under 35 U.S.C. § 103 (a) as being unpatentable over US 5,874,992 (Caporizzo) in view of US 2003/0204857 (Dinwiddie)

As mentioned above, Applicant respectfully submits that Caporizzo does not disclose “*receiving simultaneously a first signal on a first channel and a second signal on a second different channel; and monitoring and collecting information about the first signal and the second signal received by the STB, wherein the information comprises at least one of channel absence/presence, error count and signal level estimates,*” as recited by independent claim 1, as amended. Subsequently, Dinwiddie fails to show or suggest Applicant’s claim 4, which depends

from claim 1. Applicant respectfully requests withdrawal of the rejection of claim 4 under 35 U.S.C. § 103 (a) as being unpatentable over Caporizzo in view of Dinwiddie.

Rejection of Claims 5, 6, and 15-16 under 35 U.S.C. § 103 (a) as being unpatentable over US 5,874,992 (Caporizzo) in view of US 2004/0073916 (Petrovic)

As mentioned above, Applicant respectfully submits that Caporizzo does not disclose “*receiving simultaneously a first signal on a first channel and a second signal on a second different channel; and monitoring and collecting information about the first signal and the second signal received by the STB, wherein the information comprises at least one of channel absence/presence, error count and signal level estimates,*” as recited by independent claim 1, as amended and “*monitoring a first signal and a second signal received simultaneously on down stream path and a signal on upstream path, for at least one of channel absence/presence, error count and signal level estimates,*” as recited by the Applicant’s independent claim 7, as amended. Subsequently, Petrovic fails to show or suggest Applicant’s claims 5-6 and 15, which depend from claims 1 and 7, respectively. Applicant respectfully requests withdrawal of the rejection of claims 5-6 and 15 under 35 U.S.C. § 103 (a) as being unpatentable over Caporizzo in view of Petrovic.

Rejection of Claim 11 under 35 U.S.C. § 103 (a) as being unpatentable over US 5,874,992 (Caporizzo) in view of US 6,425,133 (Leary)

As mentioned above, Applicant respectfully submits that Caporizzo does not disclose “*monitoring a first signal and a second signal received simultaneously on down stream path and a signal on upstream path, for at least one of channel absence/presence, error count and signal level estimates,*” as recited by the Applicant’s independent claim 7, as amended. Subsequently, Petrovic fails to show or suggest Applicant’s claim 11, which depends from claim 7. Applicant respectfully requests withdrawal of the rejection of claim 11 under 35 U.S.C. § 103 (a) as being unpatentable over Caporizzo in view of Leary.

Conclusion

Applicant has reviewed the other references of record and believes that Applicant's claimed invention is patentably distinct and nonobvious over each reference taken alone or in combination. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

Date: November 6, 2008

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